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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SCOTT LOCHNER
and MEIR BARTUR

Appeal 2009-002244
Application 09/994,520
Technology Center 2600

Decided: May 24, 2010

Before ROBERT E. NAPPI, MAHSHID D. SAADAT,
and THOMAS S. HAHN, *Administrative Patent Judges*.

HAHN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants invoke our review under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 2-21. We have jurisdiction under 35 U.S.C. § 6(b). We affirm-in-part.

STATEMENT OF THE CASE

Appellants claim a wireless transceiver system for generating, transmitting, and displaying a video signal with a synchronization signal.[1] Claim 2 is illustrative:

> 2. A system, comprising:
> a first housing having a data entry part allowing entry of data, a display part, allowing display of information, and a first wireless transceiver part, which communicates information; and
>
> a second housing, separate from said first housing, and including a second wireless transceiver part, adapted to communicate with said first wireless transceiver part to exchange information therewith, said second housing including at least a video generation element which produces a video output including at least one synchronization signal, and sending said video output to said first housing to drive said display part to display information based on said video output with said at least one synchronization signal.

The Examiner relies on the following prior art references to show unpatentability:

Lemelson	US 4,485,400	Nov. 27, 1984
Taaffe	US 5,046,027	Sep. 3, 1991
Pfeiffer	US 5,129,060	July 7, 1992
Tymes	US 5,157,687	Oct. 20, 1992

1. The Examiner rejected claims 2, 3, 5, 7, 8, and 12 under 35 U.S.C. § 102(b) as being anticipated by Lemelson (Ans. 4-6).

[1] *See generally* Spec. 6:14-7:3, 14-16; 8:1-5; 9:17-22; 13:16-18; Fig. 1.

2. The Examiner rejected claims 4 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Lemelson and Tymes (Ans. 6, 7).

3. The Examiner rejected claims 10, 13-16, and 19-21 under 35 U.S.C. § 103(a) as being unpatentable over Lemelson and Taaffe (Ans. 7-9).

4. The Examiner rejected claims 11, 17, and 18 under 35 U.S.C. § 103(a) as being unpatentable over Lemelson, Taaffe, and Tymes (Ans. 9, 10).

5. The Examiner rejected claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Lemelson and Pfeiffer (Ans. 10, 11).

ISSUES

Appellants' arguments present the following issues:

1. Did the Examiner err under § 102(b) in finding Lemelson explicitly or inherently teaches generating a video output including a synchronization signal at a first housing, and sending the video output to drive a second housing display based on the transmitted video output with synchronization signal as recited in claims 2, 3, 5, 7, 8, and 12? (*See* Br. 4-7.)
2. Did the Examiner err under § 103(a) in finding Lemelson and Taaffe, either alone or in combination, teach or suggest transmitting video information including only new image information representing changes from a previous transmitted image as recited in claim 13? (*See* Br. 9, 10.)

3. Did the Examiner err under § 103(a) in finding Lemelson, Taaffe, and Tymes, either alone or in combination, teach or suggest producing vertical and horizontal synchronization information on separate frequency channels as recited in claim 17? (Br. 10.)

FINDINGS OF FACT

The record supports the following Findings of Fact (FF) by a preponderance of the evidence:

1. Lemelson teaches an automatic video telephone system for data transmission and recording that employs portable data terminals (col. 1, ll. 61-63).
2. Lemelson discloses a telephone terminal camera 12 that outputs video signals, and a generator that outputs vertical and horizontal synchronization pulses (col. 10, l. 50 - col. 11, l. 43).
3. Lemelson further discloses wireless transmission of "video information," "video data," or "video picture signal information" from a telephone terminal to a remote terminal (col. 11, ll. 51-63; col. 12, ll. 15-38).
4. Taaffe describes an apparatus and method for processing, transmitting, and displaying images (Abstract).
5. Taaffe discloses displaying multiple images on a partitioned monitor 23 with an image displayed in each partition, and processing one of the images to be changed while preserving the other images that are not to be changed (col. 10, ll. 37-43; Fig. 1b).

6. Tymes discloses data communication systems, such as bar code readers, having multiple remote units sending data to a control computer via intermediate base stations (Abstract; col. 1, ll. 9-13).
7. Tymes discloses using radio frequency transceivers that operate at a number of different frequencies or "'channels'" to avoid interference in data signal transmissions (col. 14, l. 66-col. 15, l. 5).

PRINCIPLES OF LAW

Analysis of claim rejections begins with a determination of claim scope. We determine claim scope not solely on the basis of claim language, but also on giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). *See also Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004) ("Though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim.").

ANALYSIS[2]

Rejection under 35 U.S.C. § 102(b)

Claims 2, 3, 5, 8, and 12

Based on the record, we are persuaded the Examiner erred in rejecting these claims as being anticipated by Lemelson. Appellants argue the sole independent claim 2 (Br. 4-7).

Respecting claim 2, Appellants contend that "[n]owhere is there any teaching or suggestion of a video signal with a synchronization signal being wirelessly sent from one housing to another in Lemelson et al." (Br. 6) (emphasis added). The Examiner responds:

> Lemelson, discloses a video generation element which produce a video output include at least one synchronization signal (vertical/horizontal synchronization signals; col. 10, lines 50-65) from one *video* telephone, i.e.[,] from one housing (Fig. 6) and sending the video picture information signal, i.e. vertical and horizontal synchronization signals to another *video* telephone, i.e. [,] to another housing (Fig. 6) wirelessly by the remote transceiver transmit antenna 107, i.e. [,] wireless of Fig. 6 (see col. 10, lines 22-35, 50-65, col. 11, lines 51-63 and col. 12, lines 15-38).

(Ans. 11.) We agree that Lemelson teaches generating a video output and synchronization signal, and we also agree that Lemelson teaches wireless

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[2] We refer to the Appeal Brief filed Nov. 1, 2007 and the Examiner's Answer mailed Mar. 17, 2008 for their respective details. Arguments that Appellants did not make in the Brief are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

transmission of "video information," "video data," or "video picture signal information" (FF 2, 3).

We, however, do not agree with the Examiner's finding that Lemelson further teaches sending a video output with an included synchronization signal to drive a second housing display as recited in claim 2. Specifically, we nowhere find Lemelson expressly or inherently teaches generation of one or more synchronization signals at a telephone terminal and then transmission of the synchronization signals to a remote telephone terminal. Alternatively, we nowhere find Lemelson teaches the disclosed "video information," "video data" or "video picture signal information" as including any synchronization signal. Consequently, we do not find independent claim 2 reading on Lemelson. Therefore, we do not find Lemelson anticipates claim 2.[3]

For the foregoing reasons, we will not sustain the rejection under § 102(b) of independent claim 2, nor will we sustain the same rejection of the dependent claims 3, 5, 8, and 12 that incorporate the disputed claim 2 synchronization signal transmission limitation.

Claim 7

Claim 7 is rejected under § 102(b) as being anticipated by Lemelson (Ans. 4, 5). It is not separately argued by Appellants.

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[3] *See Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.").

This claim, however, is dependent from independent claim 2, and, therefore, incorporates the disputed limitation for transmission of at least one synchronization signal. For the reasons discussed *supra* for claim 2, we will not sustain the rejection under § 102(b) of claim 7.

Rejections under 35 U.S.C. § 103(a)

Claims 4 and 6

These two claims are rejected under § 103(a) as being unpatentable over Lemelson and Tymes (Ans. 6, 7). Appellants group claims 4 and 6, and separately argue claim 4 as being patentable over the combined references (Br. 7, 8). Appellants, *inter alia*, argue that the combined references are deficient as to synchronization signal transmission teachings (*id.*).

Both of these claims are dependent from base claim 2, and, therefore, incorporate the disputed synchronization signal transmission limitation. The Examiner does not indicate that Tymes teaches or suggests the disputed limitation, nor do we find Tymes teaches or suggests the disputed limitation. Consequently, for the reasons discussed *supra* for claim 2, we will not sustain the rejection of claims 4 and 6.

Claims 10, 13-16, and 19-21

Appellants group these claims (Br. 9, 10), which are rejected under § 103(a) as being unpatentable over Lemelson and Taaffe.

I

Claim 10 is separately argued (Br. 9), and is dependent from base claim 2. Therefore, this claim incorporates the disputed base claim 2 synchronization signal transmission limitation. The Examiner does not indicate that Taaffe teaches or suggests the disputed limitation, nor do we

find Taaffe teaches or suggests the disputed limitation. Consequently, for the reasons discussed *supra* for claim 2, we will not sustain the rejection of claim 10.

II

Independent claim 13 from this group is argued by Appellants (Br. 9, 10).

Appellants, with respect to this claim, argue "Lemelson/Taaffe et al. teaches nothing about sending changes to an image, it [sic] only teaches sending new images" (Br. 10). Claim 13, in relevant part, recites displaying video information "including only new image information representing changes in an image since a previous transmission."

The Examiner finds Taaffe teaches transmission of changed image information and cites to findings from Taaffe that are relied on for rejecting claim 10 (Ans. 8). The Examiner's incorporated findings from the rejection of claim 10 are that: "Taaffe discloses a method an[d] apparatus for processing and displaying images which send only new picture information (image) representing change in the contents of the image (col. 10, lines 37-43, col. 11, lines 28-41)" (Ans. 7).

We find Taaffe teaches processing images to be changed and not images that are unchanged (FF 5). We further find from plain meanings of the disputed limitation terms that a reasonably broad interpretation as would be understood by an ordinarily skilled artisan without improper importation of Specification disclosures reads on Taaffe teachings concerning processing changed images and preserving unchanged images. *Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d at 1364; *Superguide*, 358 F.3d at 875.

For the foregoing reasons, we will sustain the rejection of independent claim 13.

III

Appellants do not argue claims 14-16 and 19-21 (*see* Br. 10), which all depend from independent claim 13. Therefore, as with claim 13, we will sustain the rejection of claims 14-16 and 19-21. *See In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987).

Claim 9

This claim is rejected under § 103(a) as being unpatentable over Lemelson and Pfeiffer (Ans. 10, 11). Appellants exclusively argue the claim "should be allowable by virtue of its dependency" from base independent claim 2 (Br. 10).

Dependent claim 9 incorporates the disputed synchronization signal transmission limitation from base independent claim 2. The Examiner does not indicate that Pfeiffer teaches or suggests the disputed limitation, nor do we find Pfeiffer teaches or suggests the disputed limitation. Consequently, for the reasons discussed *supra* for claim 2, we will not sustain the rejection of claim 9.

Claims 11, 17, and 18

Appellants group these claims (Br. 10-12), which are rejected under § 103(a) as being unpatentable over Lemelson, Taaffe, and Tymes (Ans. 9, 10).

I

Claim 11 is argued by Appellants (Br. 11, 12), and is dependent from base claim 2. Therefore, this claim incorporates the disputed base claim 2 synchronization signal transmission limitation. The Examiner does not

indicate that Taaffe or Tymes teach or suggest the disputed limitation, nor do we find Taaffe or Tymes teach or suggest the disputed limitation. Consequently, for the reasons discussed *supra* for claim 2, we will not sustain the rejection of claim 11.

II

Claim 17 is argued by Appellants (Br. 10), and is dependent from base claim 13. In relevant part, claim 17 recites that vertical and horizontal "synchronization information are respectively produced on separate frequency channels."

Appellants argue that the Examiner "never even alleges that either Lemelson et al. or Taaffe et al. teaches vertical and horizontal sync signals produced on separate frequency channels" (Br. 10). Indeed, instead of alleging from Lemelson or Taaffe, the Examiner turns to Tymes and finds data transmission on separate channels being taught to avoid interference (Ans. 9, 10; *accord* FF 7). Then the Examiner reasons that it would have been obvious to provide a data communication network using different frequency channels in the device of Lemelson in view of Tymes so as to avoid interference (Ans. 9, 10).

Appellants have argued that "[n]owhere is there any teaching or suggestion of a video signal with a synchronization signal being wirelessly sent from one housing to another in Lemelson et al." (Br. 6) With respect to data communication network transmission of synchronization signals being taught by Lemelson, as asserted by the Examiner, we, as discussed *supra* for claim 2, do not find such subject matter taught by Lemelson. Further, the Examiner does not indicate that Tymes or Taaffe teach transmission of synchronization signals, nor do we find these references teach such subject

matter. Consequently, we do not agree that the cited references alone, or in combination, teach or suggest the claim 17 recited subject matter.

For the foregoing reasons, we will not sustain the rejection of claim 17.

III

Appellants do not argue claim 18, which depends from base independent claim 13. Therefore, as with claim 13, we will sustain the rejection of claim 18. *See Nielson*, 816 F.2d at 1572.

ORDER

The Examiner's decision rejecting claims 13-16 and 18-21 is affirmed. The Examiner's decision rejecting claims 2-12 and 17 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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